THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.22424 of 2007

Date 13.11.2007

Between:
Vadla Narayana.

..... PETITIONER

AND

The District Collector, Mahabubnagar District & others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.22424 of 2007

O R D E R:

Heard the learned counsel for the petitioner as well as learned Government Pleader for Revenue and Sri N.Vasudeva Reddy, learned counsel appearing for respondents 5 to 7.

The short question that arises for consideration is as to whether the District Collector is authorized to pass any interim orders in appeal filed before the Joint Collector?

If the Joint Collector is on leave and in his absence while exercising the Full Additional Charge of the Joint Collector, it is always open for the District Collector to entertain an appeal and pass interim orders, but if the Joint Collector is functioning and in his presence, the District Collector is not empowered to pass any interim orders in the pending appeal.

As against the order dated 02-06-2007 passed by the 3rd respondent-Revenue Divisional Officer, Mahabubnagar in setting aside the Occupancy Right Certificate granted in favour of predecessors of R-5 to A-7 and upholding the grant of Occupancy Right Certificate in favour of the petitioner, respondents 5 to 7 filed an appeal before the Joint Collector. It is the case of the petitioner that during the pendency of the appeal before the Joint Collector, Mahabubnagar, the fifth respondent herein made a representation dated 09-08-2007 before the District Collector and that the District Collector had granted *status quo* for a period of 15 days. Petitioner states that when an order of *status quo* was granted by the District Collector, the Joint Collector was on leave and, therefore, it cannot be said that the District Collector while exercising the powers of the Joint Collector was not entitled to pass

interim orders as he was in Full Additional Charge of the Joint Collector. Thereafter, the fifth respondent made similar representation dated 09-08-2007 before the District Collector. Petitioner's grievance is that though the Joint Collector was in his office, the District Collector made an endorsement dated
28-08-2007 continuing stay till the disposal of the appeal. Petitioner questions the order of the District Collector dated
28-08-2007 continuing the stay granted earlier on 09-08-2007 on the ground that when once the Joint Collector has joined the duty, the District Collector has no power to exercise the powers of the appellate authority.

Learned Government Pleader for Revenue submits that as per G.O.Ms.No.818, dated 06-09-1990, under the A.P.(Telangana Area) Abolition of Inams Act, 1955 (for short 'the Act'), when the notification was issued under Section 2(a) of the Act authorizing the Joint Collector to exercise the powers of appellate authority, it is not open for the Collector to exercise the powers vested on the Joint Collector.

It is not in dispute that the Joint Collector was functioning and was in his office on 28-08-2007. More so, the Joint Collector made an endorsement in proceedings No.F2/14/2007 dated 05-09-2007 stating that no stay had been granted by him and that the proceedings of the Tahsildar, Jadcherla Mandal dated 28-08-2007 stating that the endorsement of the District Collector to continue stay till the he disposes of the case cannot be acted upon. Accordingly the said endorsement of the Collector dated
09-08-2007 and the consequential endorsement dated
28-08-2007 are set aside.

Accordingly, the Writ Petition is allowed. Since the appeal is pending before the Joint collector, the Joint Collector shall consider and dispose of the appeal including stay application after hearing both

the parties. No order as to costs.

13-11-2007

usd